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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,527	01/09/2002	George Stuart Cockerill	PU3743USW	4128

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EXAMINER

TRUONG, TAMTHOM NGO

ART UNIT PAPER NUMBER

1624

DATE MAILED: 07/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant(s)

10/030,527

Applicant(s)

COCKERILL ET AL.

Examiner

Tamthom N. Truong

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1-9-02 (Preliminary Amendment).
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-43 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1, 3-11, 13-20, 23, 25, 28, 30, 33, 35, 36, and 39-43 (part of each), drawn to compounds of formula (I) with the following substituents:

X is CR¹; Y is N; and Ar is phenyl;

their pharmaceutical composition, and method of treatment.

Group II, claim(s) 1, 3-20, 23, 25, 28, 30, 33, 35-43 (part of each), drawn to compounds of formula (I) with the following substituents:

X is CR¹; Y is N; and Ar is furan;

their pharmaceutical composition, and method of treatment.

Group III, claim(s) 1, 3-11, 13-20, 23, 25, 28, 30, 33, 35, 36, and 39-43 (part of each), drawn to compounds of formula (I) with the following substituents:

X is CR¹; Y is N; and Ar is thiophene;

their pharmaceutical composition, and method of treatment.

Group IV, claim(s) 1, 3-11, 13-20, 23, 25, 28, 30, 33, 35, 36, and 39-43 (part of each), drawn to compounds of formula (I) with the following substituents:

X is CR¹; Y is N; and Ar is pyrrole;

Art Unit: 1624

their pharmaceutical composition, and method of treatment.

Group V, claim(s) 1, 3-20, 23, 25, 28, 30, 33, 35-37, and 39-43 (part of each), drawn to compounds of formula (I) with the following substituents:

X is CR¹; Y is N; and Ar is thiazole;

their pharmaceutical composition, and method of treatment.

Group VI, claim(s) 1, 4-11, 13-20, 36, 39-43 (part of each), drawn to compounds of formula (I) with the following substituents:

X is N; Y is CR¹; and Ar is phenyl;

their pharmaceutical composition, and method of treatment.

Group VII, claim(s) 1, 4-20, 36, 39-43 (part of each), drawn to compounds of formula (I) with the following substituents:

X is N; Y is CR¹; and Ar is furan;

their pharmaceutical composition, and method of treatment.

Group VIII, claim(s) 1, 4-11, 13-20, 36, 39-43 (part of each), drawn to compounds of formula (I) with the following substituents:

X is N; Y is CR¹; and Ar is thiophene;

their pharmaceutical composition, and method of treatment.

Group IX, claim(s) 1, 4-11, 13-20, 36, 39-43 (part of each), drawn to compounds of formula (I) with the following substituents:

X is N; Y is CR¹; and Ar is pyrrole;

their pharmaceutical composition, and method of treatment.

Group X, claim(s) 1, 4-20, 36, 39-43 (part of each), drawn to compounds of formula (I) with the following substituents:

Art Unit: 1624

X is N; Y is CR¹; and Ar is thiazole;

their pharmaceutical composition, and method of treatment.

Group XI, claim(s) 1, 2, 4-11, 13-22, 24, 26, 27, 29, 31, 32, 34, 36, 39-43 (part of each), drawn to compounds of formula (I) with the following substituents:

X is CR¹ or CR²;
Y is CR¹ or CR²;
and Ar is phenyl;

their pharmaceutical composition, and method of treatment.

Group XII, claim(s) 1, 2, 4-22, 24, 26, 27, 29, 31, 32, 34, 36-43 (part of each), drawn to compounds of formula (I) with the following substituents:

X is CR¹ or CR²;
Y is CR¹ or CR²;
and Ar is furan;

their pharmaceutical composition, and method of treatment.

Group XIII, claim(s) 1, 2, 4-11, 13-22, 24, 26, 27, 29, 31, 32, 34, 36, 39-43 (part of each), drawn to compounds of formula (I) with the following substituents:

X is CR¹ or CR²;
Y is CR¹ or CR²;
and Ar is thiophene;

their pharmaceutical composition, and method of treatment.

Group XIV, claim(s) 1, 2, 4-11, 13-22, 24, 26, 27, 29, 31, 32, 34, 36, 39-43 (part of each), drawn to compounds of formula (I) with the following substituents:

X is CR¹ or CR²;
Y is CR¹ or CR²;
and Ar is pyrrole;

their pharmaceutical composition, and method of treatment.

Art Unit: 1624

Group XV, claim(s) 1, 2, 4-22, 24, 26, 27, 29, 31, 32, 34, 36, 37, 39-43 (part of each), drawn to compounds of formula (I) with the following substituents:

X is CR¹ or CR²;
Y is CR¹ or CR²;
and Ar is thiazole;

their pharmaceutical composition, and method of treatment.

The inventions of groups I to XV differ from each other because each group is drawn to a combination of ring systems that is distinct and patentable over each other. Essentially, these are fifteen independent inventions as compounds of one group can be utilized alone, and not in combination of those in other groups. Note, with a variable core as such, the common property is not enough to keep fifteen groups in the same Markush claim. Furthermore, a prior art that renders obvious one invention would not do so to the other. Thus, restriction for examination purpose as indicated is proper. However, should applicant traverse on the ground that the fifteen groups are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the fifteen groups to be obvious variant or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the invention unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Because of the complexity of the grouping, a written restriction is presented. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).


Art Unit: 1624

2. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamthom N. Truong whose telephone number is 703-305-4485. The examiner can normally be reached on M-F (9:30-5:00) & every Saturday morning (starting from 4-7-03).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mukund Shah can be reached on 703-308-4716. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4556 for regular communications and 703-308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.


Tamthom N. Truong
Examiner
Art Unit 1624

July 1, 2003